

110TH CONGRESS
1ST SESSION

S. 285

To amend the Internal Revenue Code of 1986 to provide a credit to certain concentrated animal feeding operations for the cost of complying with environmental protection regulations.

IN THE SENATE OF THE UNITED STATES

JANUARY 12, 2007

Mr. HAGEL (for himself and Mr. ISAKSON) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide a credit to certain concentrated animal feeding operations for the cost of complying with environmental protection regulations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “CAFO Tax Credit
5 Act”.

1 **SEC. 2. CREDIT FOR CONCENTRATED ANIMAL FEEDING OP-**
 2 **ERATIONS.**

3 (a) IN GENERAL.—Subpart D of part IV of sub-
 4 chapter A of chapter 1 of the Internal Revenue Code of
 5 1986 (relating to business related credits) is amended by
 6 adding at the end the following new section:

7 **“SEC. 450. CREDIT FOR EPA COMPLIANCE COSTS FOR CON-**
 8 **CENTRATED ANIMAL FEEDING OPERATIONS.**

9 “(a) ALLOWANCE OF CREDIT.—

10 “(1) IN GENERAL.—For purposes of section 38,
 11 in the case of an eligible taxpayer, the EPA compli-
 12 ance credit determined under this section for the
 13 taxable year is an amount equal to the applicable
 14 percentage of the qualified compliance costs paid or
 15 incurred by the eligible taxpayer during the taxable
 16 year.

17 “(2) APPLICABLE PERCENTAGE.—For purposes
 18 of paragraph (1), the applicable percentage shall be
 19 determined as follows:

“If the amount of qualified compliance costs paid or incurred during the taxable year is:	The applicable percentage is:
Not over \$100,000	100
Over \$100,000 but not over \$200,000	80
Over \$200,000 but not over \$400,000	60
Over \$400,000	40.

20 “(b) LIMITATION.—The amount of credit allowed
 21 under subsection (a) for any taxable year shall not exceed
 22 \$500,000.

1 “(c) ELIGIBLE TAXPAYER.—For purposes of this sec-
 2 tion, the term ‘eligible taxpayer’ means an owner or oper-
 3 ator of a concentrated animal feeding operation (as de-
 4 fined under section 122.23 of title 40, Code of Federal
 5 Regulations).

6 “(d) QUALIFIED COMPLIANCE COSTS.—For purposes
 7 of this section—

8 “(1) IN GENERAL.—The term ‘qualified compli-
 9 ance costs’ means costs paid or incurred for compli-
 10 ance with a national pollutant discharge elimination
 11 system permit issued under section 402 of the Fed-
 12 eral Water Pollution Control Act (33 U.S.C. 1342).

13 “(2) EXCLUSION FOR AMOUNTS FUNDED BY
 14 GRANTS, ETC.—The term ‘qualified compliance
 15 costs’ shall not include any amount to the extent
 16 such amount is funded by any grant, contract, or
 17 otherwise by another person (or any governmental
 18 entity).

19 “(e) SPECIAL RULES.—

20 “(1) REDUCTION IN BASIS.—For purposes of
 21 this subtitle, if a credit is determined under this sec-
 22 tion for any expenditure with respect to any prop-
 23 erty, the increase in basis of such property which
 24 would (but for this subsection) result from such ex-

1 penditure shall be reduced by the amount of the
2 credit so determined.

3 “(2) WHEN COSTS PAID OR INCURRED.—For
4 purposes of this section, a cost shall be treated as
5 paid or incurred in the year in which the taxpayer
6 achieves compliance with the national pollutant dis-
7 charge elimination system permit issued under sec-
8 tion 402 of the Federal Water Pollution Control Act
9 (33 U.S.C. 1342).

10 “(3) DENIAL OF DOUBLE BENEFIT.—No deduc-
11 tion or other credit shall be allowed under this chap-
12 ter for any amount taken into account in deter-
13 mining the credit under this section.

14 “(f) TERMINATION.—This section shall not apply to
15 expenditures paid or incurred after December 31, 2010.”.

16 (b) CREDIT MADE PART OF GENERAL BUSINESS
17 CREDIT.—Section 38(b) of the Internal Revenue Code of
18 1986 is amended by striking “plus” at the end of para-
19 graph (30), by striking the period at the end of paragraph
20 (31) and inserting “, plus”, and by adding at the end the
21 following new paragraph:

22 “(32) the EPA compliance credit determined
23 under section 45O(a).”.

24 (c) CONFORMING AMENDMENTS.—

1 (1) Section 1016(a) of the Internal Revenue
2 Code of 1986 is amended by striking “and” at the
3 end of paragraph (36), by striking the period at the
4 end of paragraph (37) and inserting “, and”, and by
5 inserting after paragraph (37) the following new
6 paragraph:

7 “(38) to the extent provided in section
8 45O(e)(1).”.

9 (2) The table of sections for subpart D of part
10 IV of subchapter A of chapter 1 of such Code is
11 amended by adding at the end the following new
12 item:

“Sec. 45O. Credit for compliance costs for concentrated animal feeding operations.”.

13 (d) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to expenditures incurred after De-
15 cember 31, 2002.

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